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EXAMINER

TIEU, BINH KIEN

ART UNIT PAPER NUMBER

2614

DATE MAILED: 07/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/915,053

Applicant(s)

BOGAT, ANTONIO

Examiner

BINH K. TIEU

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Allowable Subject Matter

1. The indicated allowability of claims 6, 13 and 19-20 is withdrawn in view of the newly discovered reference(s) to Lun Yip (Pub. No.: US 2002/0147913 A1) and Silberberg (Pub. No.: US 2003/0010821). Rejections based on the newly cited reference(s) follow.

Response to Arguments

2. Applicant's arguments, see Applicant's Arguments beginning from page 10 of the Remarks, filed 06/12/2006, with respect to the rejection(s) of claim(s) 1-25 under the combinations of the cited references of the record have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Swartz et al. (Pub. No.: US 2005/0259797 A1).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 8-10 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kumar et al. (Pub. No.: US 2002/0143634 A1 *as cited in the previous Office Action*) in view of Swartz et al. (Pub. No.: US 2005/0259797 A1).

Regarding claim 1, Kumar et al. (“Kumar”) teaches a system for supporting consumer transactions billed to an account through a cellular telephone, as shown in figure1, comprising:

a merchant data receiver for receiving merchant transaction data from a merchant terminal at a transaction site (i.e., Wireless Payment System (WPS) 20 receiving merchant transaction data such as transaction amount, Merchant IDentification code (MID) from POS device 30, see paragraph [0038]);

a consumer data receiver for receiving consumer transaction data from a cellular telephone at the transaction site (i.e., WPS 20 receiving consumer transaction data such as customer approval or customer conformation data, PIN, etc. from customer’s mobile phone 36, see paragraph [0041] wherein the customer portable phone 36 is depicted at same location of the POS device 30, see paragraph [0032]); and

a transaction processor for processing the merchant transaction data and the consumer transaction data to access a financial account (i.e., the account of the merchant 54) so that approval for a transaction at the transaction site may be obtained (see paragraph [0042], also see paragraphs [0045]-[0051]).

It should be noticed that Kumar fails to clearly teach the feature of generating a transaction record using the merchant transaction data and the consumer transaction data, as amended to the claim and argued by Applicant. However, Swartz et al. (Hereinafter, “Swartz”) teaches a system for self-service checkout using a cellular portable communication terminal to communicate with a store computer. Swartz further teaches that the store computer operates as a transaction processor to receive **merchant transaction data** such as scanned bar codes of product and product data, etc. transmitted from the portable terminal (see paragraphs [0040] through

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[0042]). When all of the selected products for purchases were scanned, the customer approaches a checkout register, i.e., a pay station. The customer provides *customer transaction data* such as the portable communication terminal ID to a cashier. The cashier input such portable communication terminal ID and the store computer receives such customer transaction data so that a transaction record, i.e., customer transaction file is generated and/or retrieved using the *merchant transaction data* and *customer transaction data* (see paragraph [0046]). The store computer also generates transaction record, i.e., “suspend transaction record” using the *merchant transaction data* and *customer transaction data* (see paragraph [0050]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of the features of generating a transaction record using the merchant transaction data and the consumer transaction data, as amended to the claim and argued by Applicant, as taught by Swartz, into view of Kumar in order to record and to bill the customer.

Regarding claims 2-3, Kumar further teaches limitations of the claims in paragraphs [0038], [0040] and [0042].

Regarding claim 8, Kumar teaches a system for supporting transactions billed to an account associated with a cellular telephone, as shown in figure1, comprising:

a merchant terminal (POS device 30) for generating and send merchant transaction data (i.e., merchant transaction data such as transaction amount, Merchant IDentification code (MID) being sent from POS device 30, see paragraph [0038]);

a consumer data receiver for receiving consumer transaction data from a cellular telephone at the transaction site (i.e., WPS 20 receiving consumer transaction data such as

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customer approval or customer conformation data, PIN, etc. from customer's mobile phone 36, see paragraph [0041] *wherein the customer portable phone 36 is depicted at same location of the POS device 30, see paragraph [0032]*); and

a transaction processor for processing the merchant transaction data and the consumer transaction data to access a financial account (i.e., the account of the merchant 54) so that approval for a transaction at the transaction site may be obtained (see paragraph [0042], also see paragraphs [0045]-[0051]).

It should be noticed that Kumar fails to clearly teach the feature of generating a transaction record using the merchant transaction data and the consumer transaction data, as amended to the claim and argued by Applicant. However, Swartz et al. (Hereinafter, "Swartz") teaches a system for self-service checkout using a cellular portable communication terminal to communicate with a store computer. Swartz further teaches that the store computer operates as a transaction processor to receive *merchant transaction data* such as scanned bar codes of product and product data, etc. transmitted from the portable terminal (see paragraphs [0040] through [0042]). When all of the selected products for purchases were scanned, the customer approaches a checkout register, i.e., a pay station. The customer provides *customer transaction data* such as the portable communication terminal ID to a cashier. The cashier input such portable communication terminal ID and the store computer receives such customer transaction data so that a transaction record, i.e., customer transaction file is generated and/or retrieved using the *merchant transaction data* and *customer transaction data* (see paragraph [0046]). The store computer also generates transaction record, i.e., "suspend transaction record" using the *merchant transaction data* and *customer transaction data* (see paragraph [0050]).

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Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of the features of generating a transaction record using the merchant transaction data and the consumer transaction data, as amended to the claim and argued by Applicant, as taught by Swartz, into view of Kumar in order to record and to bill the customer.

Regarding claims 9-10, Kumar further teaches limitations of the claims in paragraphs [0038], [0040] and [0042].

Regarding claim 24, Kumar teaches a system for supporting consumer transactions billed to an account through a cellular telephone, as shown in figure 1, comprising:

a merchant data receiver for receiving merchant transaction data from a merchant terminal at a transaction site over a first communication link (i.e., Wireless Payment System (WPS) 20 receiving merchant transaction data such as transaction amount, Merchant Identification code (MID) from POS device 30 via one of communication links, see paragraphs [0031] and [0038]);

a consumer data receiver for receiving data from a consumer cellular telephone at the transaction site over a second communication link (i.e., WPS 20 receiving consumer transaction data such as customer approval or customer conformation data, PIN, etc. from customer's mobile phone 36 over a wireless telecommunication link, see paragraphs [0032] and [0041] *wherein the customer portable phone 36 is depicted at same location of the POS device 30, see paragraph [0032], also see figure 4*); and

a transaction processor for processing the merchant transaction data and the consumer transaction data to access a financial account (i.e., the account of the merchant 54) so that

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approval for a transaction at the transaction site may be obtained (see paragraph [0042], also see paragraphs [0045]-[0051]).

It should be noticed that Kumar fails to clearly teach the feature of receiving an incoming call from a consumer cellular telephone at the transaction site over a second communication link, as amended to the claim and argued by Applicant. However, Swartz et al. (Hereinafter, “Swartz”) teaches a system for self-service checkout using a cellular portable communication terminal to communicate with a store computer via a second communication link during checkout transaction [see paragraph [0027] for transmitting and receive *merchant transaction data* such as scanned bar codes of product and product data, etc. (see paragraphs [0040] through [0042]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of the features of receiving an incoming call from a consumer cellular telephone at the transaction site over a second communication link, as amended to the claim and argued by Applicant, as taught by Swartz, into view of Kumar in order to record and to bill the customer.

5. Claims 4-7 and 15-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lun Yip (Pub. No.: US 2002/0147913 A1) in view of Silberberg (Pub. No.: US 2003/0010821).

Regarding claims 4, 15 and 21, Lun Yip teaches a terminal such as a mobile commerce server, as shown in figures 3 and 4 for supporting consumer transactions billed through an account through a cellular telephone terminal such as a wireless phone or other wireless device at a transaction site. Lun Yip further teaches that, upon finished shopping, for instance, a supermarket, a customer takes out his cell phone and dials a pre-programmed mobile commerce

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website for initiating transaction (i.e., payment). After entering identification data to identify the customer to the mobile commerce server, the customer seeks to complete transaction by transmitting the amount, and store number to the mobile commerce server. Upon receipts of merchant transaction data (i.e., store number, etc.) and customer transaction data (i.e., PIN, payment account, amount of purchases, etc.), the mobile commerce service generates transaction data such as transaction ID number that is transmitted back to the customer via a cash register (see paragraphs [0042]-[0049]).

It should be noticed that Lun Yip teaches the telephone number of the mobile commerce server is pre-programmed into the customer's cell phone, not displayed somewhere at the transaction site, i.e., at Point of Sale (POS) terminal. Lun Yip also teaches that the payment is debited from one of bank accounts (i.e., debit account, credit account, checking account, etc.). Lun Yip fails to clearly teach that the payment is charged to an account associated with the cell phone telephone number. Finally, Lun Yip teaches that the wireless technologies having provided the ability for one having a wireless transmitter, such as a cellular phone, to be able to transact business, for instance, pay parking meters and having it charged to the individual's account (see paragraphs [0010] and [0055]). Silberberg teaches a vehicle parking system comprising a parking meter (10) as shown in figure 1. The parking meter 10 comprises a display 24 for displaying a telephone number associated with the meter for user to call the central control station 50 for payment using the user's mobile phone. Silberberg further teaches the payment of parking also charged to a unique account number, which is established and associated with the user's telephone number (see paragraphs [0047] through [0048]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the feature of providing a telephone number at a display, and charging the payment to an account associated with customer's cell phone number, as taught by Silberberg, into view of Lun Yip in order to provide update contact information (update telephone number) used at specific POS terminal and conveniently payment.

Regarding claim 5, Lun Yip further teaches limitations of the claim in paragraph [0048].

Regarding claim 6, the combination of the references further teaches other options provided to the customer to select for the payment, etc. paid by smartcard, credit card, etc. at meter 10 (see Silberberg, paragraph [0049]) or a cashier at the case register provides options of payments to the customer (see paragraphs [0044]-[0054]).

Regarding claims 7, 16, 20 and 23, Lun Yip further teaches limitations of the claims in paragraphs [0043] and [0048].

Regarding claims 17, Lun Yip further teaches limitations of the claim in paragraph [0052].

Regarding claims 18-19, Silberberg further teaches limitations of the claim in paragraphs [0047] and [0048].

6. Claims 11-14 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kumar et al. (Pub. No.: US 2002/0143634 A1) in view of in view of Swartz et al. (Pub. No.: US 2005/0259797 A1) as applied to claims 8 and 24 above, and further in view of Lun Yip (Pub. No.: US 2002/0147913 A1) and Silberberg (Pub. No.: US 2003/0010821).

Regarding claims 11-14 and 25, the combination of Swartz and Kumar, teaches all subject matters as claimed above. The combination of Lun Yip and Silberberg also teaches limitations of claims 11-14 and 25 as explained and addressed in the rejections of claims 4-7 above.

7. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lun Yip (Pub. No.: US 2002/0147913 A1) in view of Silberberg (Pub. No.: US 2003/0010821) as applied to claim 21 above, and further in view of Kumar et al. (Pub. No.: 2002/0143634 A1).

Regarding claim 22, Lun Yip and Silberberg, in combination, teaches all subject matter as claimed above, except for the feature of generating at least some of the merchant transaction data using a cost of a product selected by the consumer. However, Kumar teaches such feature in paragraph [0038] for a purpose of providing a payment for checkout at transaction site.

Therefore, it would have been obvious to one of ordinary skill in the art the time the invention was made to incorporate the use of the feature of generating at least some of the merchant transaction data using a cost of a product selected by the consumer, as taught by Kumar, into view of Lun Yip and Silberberg in order to purchase the products.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binh K. Tieu whose telephone number is (571) 272-7510 and E-mail address: BINH.TIEU@USPTO.GOV.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Curtis Kuntz, can be reached on (571) 272-7499 and **IF PAPER HAS BEEN**

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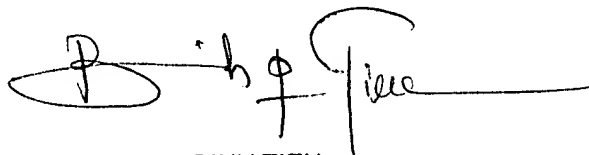
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A handwritten signature in black ink, appearing to read 'Binh Tieu', with a stylized flourish at the end.

**BINH TIEU
PRIMARY EXAMINER**

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Date: July 21, 2006